

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

10X GENOMICS, INC. and PRESIDENT
AND FELLOWS OF HARVARD COLLEGE,

Plaintiffs,

v.

NANOSTRING TECHNOLOGIES, INC.,

Defendant.

C.A. No. 22-cv-00261-MFK

**DEFENDANT NANOSTRING TECHNOLOGIES, INC.’S MOTION FOR
TEMPORARY RESTRAINING ORDER AND PRELIMINARY INJUNCTION**

Defendant NanoString Technologies, Inc. (“NanoString”) respectfully moves the Court for entry of a temporary restraining order and preliminary injunction enjoining 10x Genomics, Inc. and President and Fellows of Harvard College (collectively, the “Plaintiffs”) from continuing to pursue or enforcing a potential injunction in a related patent infringement suit (File Ref. 7 O 2693/22) in Germany, due to issue on May 4, 2023, for ninety days to permit discovery and investigation of this serious issue.

Extraordinary relief is required because on April 23, 2023, NanoString was made aware for the first time of an NIH grant (the “Grant”) revealing that the Harvard made a promise to the U.S. government to license technologies resulting from the Grant—including the patents asserted here and in a co-pending German proceeding—on an open and non-exclusive basis. Based on these facts now coming to light, NanoString is also moving to amend its answer to asserted the affirmative defense of unclean hands and new counterclaims for Sherman Act § 2 violations, related state law violations, and breach of contract by the Plaintiffs.

For the reasons explained in NanoString's accompanying brief in support this Motion, the requested relief is warranted because NanoString is likely to succeed on the merits of its Sherman Act and breach of contract counterclaims, which are dispositive of the German proceeding, and will be irreparably harmed in the absence of such relief. As for balancing of equities, the requested relief is narrowly tailored to allow NanoString to conduct discovery on the material facts, and is more than justified by Plaintiffs improper concealment of the Grant. Finally, the public interest will be served by upholding the NIH's purpose of promoting access to technologies and preventing misuse of taxpayer money.

Dated: April 27, 2023

Respectfully submitted,

FARNAN LLP

/s/ Brian E. Farnan

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